

# SENATE MOTION

**MR. PRESIDENT:**

**I move** that Senate Bill 405 be amended to read as follows:

- 1 Page 11, between lines 9 and 10, begin a new paragraph and insert:
- 2 "SECTION 23. IC 9-23-2-2.5 IS ADDED TO THE INDIANA
- 3 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) An application to be**
- 5 **licensed as a dealer or a wholesale dealer, other than an application**
- 6 **made by a dealer who is a franchisee selling new motor vehicles,**
- 7 **must be made in the manner required under section 2 of this**
- 8 **chapter and must be accompanied by:**
- 9 (1) a properly executed bond; or
- 10 (2) a renewal certificate for a bond.
- 11 (b) The term of a bond must correspond to the period of
- 12 issuance for the license as set forth in section 8 of this chapter. If a
- 13 renewal certificate is used, the bond is considered to be extended
- 14 in force for each succeeding year in the same amount and with the
- 15 same effect as an original bond.
- 16 (c) The bond must:
- 17 (1) be in the sum of fifty thousand dollars (\$50,000);
- 18 (2) have good and sufficient surety;
- 19 (3) be approved by the bureau; and
- 20 (4) indemnify or reimburse a purchaser, seller, or financier
- 21 for monetary loss caused by:
- 22 (A) fraud;
- 23 (B) breach of contract;
- 24 (C) failure to comply with IC 9-17-3-3; or
- 25 (D) suspension or revocation of the license for the reasons
- 26 set forth in section 14(a)(1) through 14(a)(6) of this
- 27 chapter, whether the action or inaction was on the part of:
- 28 (i) the dealer;
- 29 (ii) the wholesale dealer; or
- 30 (iii) an employee, an agent, or a salesperson of the dealer
- 31 or wholesale dealer.

(d) The total liability of the surety may not exceed the sum of the bond.

(e) The surety shall make indemnification or reimbursement for a monetary loss:

(1) after judgment based on the monetary loss set forth in subsection (c)(4) has been entered by a court; or

(2) after the license of the dealer or the wholesale dealer has been suspended or revoked by the bureau under section 14 of this chapter.

(f) The surety:

(1) may cancel the bond after giving at least thirty (30) days notice in writing to the bureau and to the dealer or wholesale dealer; and

(2) is not liable thereafter for monetary loss resulting from a monetary loss as set forth in subsection (c)(4)."

Page 11, between lines 40 and 41, begin a new paragraph and insert:  
"SECTION 26. IC 9-23-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) A license issued under this chapter may be denied, suspended, or revoked for any of the following:

(1) Material misrepresentation in the application for the license or other information filed with the commissioner.

(2) Lack of fitness under the standards set forth in this article or a rule adopted by the commissioner under this article.

(3) Willful failure to comply with the provisions of this article or a rule adopted by the commissioner under this article.

(4) Willful violation of a federal or state law relating to the sale, distribution, financing, or insuring of motor vehicles.

(5) Engaging in an unfair practice as set forth in this article or a rule adopted by the commissioner under this article.

(6) Violating IC 23-2-2.7.

**(7) Cancellation of a required bond as set forth in section 2.5(f) of this chapter.**

(b) Except as provided in subsection (d), the procedures set forth in IC 4-21.5 govern the denial, suspension, or revocation of a license and a judicial review. However, if the bureau denies, suspends, or revokes a license issued or sought under this article, the affected person may file an action in the circuit court of Marion County, Indiana, or the circuit court of the Indiana county in which the person's principal place of business is located, seeking a judicial determination as to whether the action is proper. An action may not take effect until thirty (30) days after the commissioner's determination has been made and a notice of the determination served upon the affected person. The filing of an action as described in this section within the thirty (30) day period is an automatic stay of the commissioner's determination.

(c) Revocation or suspension of a license of a manufacturer, a distributor, a factory branch, a distributor branch, a dealer, or an

- 1 automobile auctioneer may be limited to one (1) or more locations, to  
2 one (1) or more defined areas, or only to certain aspects of the business.  
3 (d) A license may be denied, suspended, or revoked for violating  
4 IC 9-19-1. IC 4-21.5-4 governs the denial, suspension, or revocation of  
5 a license under this subsection. The bureau may issue a temporary  
6 order to enforce this subsection."  
7 Renumber all SECTIONS consecutively.  
(Reference is to SB 405 as printed February 28, 2003.)

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Senator GARD